



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on May 4, 1999

NOTICE OF ACTION TAKEN -- DOCKET OST-99-5459

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **Delta Air Lines, Inc.** filed **3/29/99** for:

XX Exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between a point or points in the United States, on the one hand, and Baku, Azerbaijan; and Tashkent, Uzbekistan, on the other, and to integrate this authority with Delta's existing certificate and exemption authority. Delta intends to operate this service via Vienna pursuant to a code-share arrangement with Austrian Airlines.

Applicant rep: **Robert E. Cohn, 202-663-8060** DOT Analyst: **Sylvia Moore, 202-366-6519**

DISPOSITION

XX **Granted** (subject to conditions, see below)

The above action was effective when taken: **May 4, 1999**, through **May 4, 2001**

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

XX **The authority granted is consistent with the aviation agreement between the United States and Uzbekistan and the overall state of aviation relations between the United States and Azerbaijan.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX** **Holder's certificate of public convenience and necessity**

XX **Standard exemptions conditions (attached)**

XX **Statement of authorization approving the Delta/Austrian code-share operations dated April 30, 1997, and the conditions therein**

Conditions: The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in award of the route integration authority requested should be construed as conferring upon Delta rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Delta notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in Delta's authority by virtue of the route integration exemption granted here, but that are not then being used by Delta, the holding of such authority by route integration will not be considered as providing any preference for Delta in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; (2) grant of the exemption authority was consistent with the public interest; and (3) grant of the authority would not constitute a "major federal action" under the Energy, Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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http://dms.dot.gov/reports/reports_aviation.asp*